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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/944,481	08/31/2001	Hussein Salama	2705-188	1568
20575 7590 06/01/2007 MARGER JOHNSON & MCCOLLOM, P.C. 210 SW MORRISON STREET, SUITE 400 PORTLAND, OR 97204			EXAMINER MURPHY, RHONDA L	
			ART UNIT 2616	PAPER NUMBER
			MAIL DATE 06/01/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/944,481

Applicant(s)

SALAMA ET AL.

Examiner

Rhonda Murphy

Art Unit

2616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 March 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-52 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 4, 5, 10, 13, 17, 18, 23, 26, 30, 31, 36, 39, 43, 44, 49 and 52 is/are allowed.
- 6) ☒ Claim(s) 1-3, 6-9, 11, 12, 14-16, 19-22, 27-29, 32-35, 37, 38, 40-42, 45-48, 50 and 51 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 August 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. This communication is responsive to the amendment filed on 3/02/07.

Accordingly, claims 1-52 are currently pending in this application.

Response to Arguments

1. Applicant's arguments, filed 3/2/07, with respect to the rejection(s) of claim(s) 1-3, 6, 14-16, 19, 27-29, 32, 40-42 and 45 under 35 USC 103 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of a newly found prior art reference.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 4, 14, 17, 20, 24, 27, 30, 33 and 37 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The above listed claims uses the terms "a device comprising" in the preamble and "a device" and "the device" throughout the body of the claim. It is unclear as to which device (the "called device" or "calling device") is being described.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 1-3, 6-9, 14-16, 19-22, 27-29, 32-35, 37-38, 40-42 and 45-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Liu (US 6,130,879).

Regarding claims 1, 14 and 40, Liu teaches a device (Figs. 2 and 3; CPE 231 and DSLAM 240 combined) comprising: a network interface (Fig. 3; WAN I/F 248, located in DSALM 240) for coupling to a network (WAN 260); and a processor (codecs, not illustrated; col. 9, lines 48-49) coupled with the network interface (WAN I/F 248), where the processor is configured to: transmit a call setup message (col. 9, lines 40-43 and 52-53) to a called device (CPE 232) through a network (WAN 260) to establish a connection session for exchanging data (col. 10, lines 1-3); receive from the called

Art Unit: 2616

device a result (col. 9, lines 58-60); analyze the result for inclusion of an attribute of the called device associated with the connection session (col. 9, lines 58-60; analyze the data rate); infer from the reply message the attribute that is not included in the reply message (col. 9, lines 58-60; tentative data rate 'R'); and transmit data to the called device using the inferred attribute (col. 9, lines 61-67; col. 10, lines 1-3).

Liu fails to explicitly disclose receiving a reply message.

However, Liu does disclose receiving a result from the called device (col. 9, lines 58-60).

In view of this, it would have been obvious to one skilled in the art to conclude the received result by the DSLAM is a reply message from the called device, since the request was received by the DSLAM after propagation of the call request.

Regarding claims 2, 15 and 41, Liu teaches the device of claims 1, 14 and 40, where the inferred attribute is a codec type of the device or a maximum allowable jitter or burst size associated with data that may be received by the device (col. 9, lines 58-60).

Regarding claims 3, 16 and 42, Liu teaches the device of claims 1, 14 and 40, where the inferred attribute is a maximum bandwidth that the device may receive data in (col. 9, lines 58-60).

Regarding claims 6, 19 and 45, Liu teaches the device of claim 1. Liu fails to explicitly teach the call setup message is an H.323 version 3 fastStart type message; and the reply message is an RSVP Path type message.

However, it is known in the art that a call setup message can be an H.323 protocol message and a reply message can be an RSVP path type message, since

Art Unit: 2616

H.323 is a standard that defines call setup and codec specifications, and RSVP is a protocol designed to support resource reservations.

Regarding claims 7, 20 and 46, Liu teaches the same limitations described above in the rejection of claim 1.

Liu fails to explicitly disclose deciding that information about the attribute will not be forthcoming prior to inferring.

However, it would have been obvious to one skilled in the art to determine the information about the attribute will not be forthcoming prior to inferring, since the caller is not aware of the acceptable or available data rate (attribute) associated with the called device, when the call request is transmitted to establish the connection with the called device.

Regarding claims 8, 21 and 47, Liu teaches the device of claims 7, 20 and 46, but fails to explicitly disclose where deciding is performed by determining that the reply message was received before information about the attribute was received.

However, it would have been obvious to one skilled in the art to decide by determining that the reply message was received before information about the attribute was received, since the caller is not aware of the acceptable or available data rate (attribute) associated with the called device, when the call request is transmitted to establish the connection with the called device.

Regarding claims 9, 22 and 48, Liu teaches the device of claims 7, 20 and 46. Liu fails to explicitly teach the call setup message is an H.323 version 3 fastStart type message; and the reply message is an RSVP Path type message.

However, it is known in the art that a call setup message can be an H.323 protocol message and a reply message can be an RSVP path type message, since H.323 is a standard that defines call setup and codec specifications, and RSVP is a protocol designed to support resource reservations.

Regarding claims 27 and 33, Liu teaches the same limitations described above in the rejection of claims 1 and 7, respectively.

Liu fails to explicitly teach an article comprising: a computer-readable medium having instructions stored thereon, and when the instructions are executed by at least one device, they perform the steps described above in the rejection of claims 1 and 7.

However, it is known in the art for articles/devices to contain a computer-readable medium having instructions to perform various functions.

Therefore, it would have been obvious to one skilled in the art to include an article comprising a computer-readable medium, so as to execute instructions for performing various tasks.

Regarding claim 28, Liu teaches the same limitations described above in the rejection of claim 2.

Regarding claim 29, Liu teaches the same limitations described above in the rejection of claim 3.

Regarding claim 32, Liu teaches the same limitations described above in the rejection of claim 6.

Regarding claim 34, Liu teaches the same limitations described above in the rejection of claim 8.

Art Unit: 2616

Regarding claim 35, Liu teaches the same limitations described above in the rejection of claim 9.

Regarding claim 37, Liu teaches the same limitations described above in the rejection of claim 11.

Liu fails to explicitly teach an article comprising: a computer-readable medium having instructions stored thereon, and when the instructions are executed by at least one device, they perform the steps described above in the rejection of claim 11.

However, it is known in the art for articles/devices to contain a computer-readable medium having instructions to perform various functions.

Therefore, it would have been obvious to one skilled in the art to include an article comprising a computer-readable medium, so as to execute instructions for performing various tasks.

Regarding claim 38, Liu teaches the same limitations described above in the rejection of claim 12.

7. Claims 11-12, 24-25 and 50-51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lor et al. (US 7,082,133).

Regarding claims 11, 24 and 50, Lor teaches a device (Figs. 1 and 2; SOC 10) comprising: a network interface (Fig. 2; communication line from CMIC 40) for coupling to a network; and a processor (CMIC 40) coupled with the network interface (see Fig. 2), where the processor is configured to: receive a call setup message from a device through a network to establish a connection for exchanging data (col. 38, lines 28-33);

Art Unit: 2616

configure a first port to transmit data through, during the connection (col. 38, lines 33-40); configure a second port to receive data from, during the connection (col. 38, lines 33-45); transmit to the device a reply message identifying the first port as a port to transmit from (col. 38, lines 51-59); and receive data addressed to the second port in response to the reply message (col. 56-66), where an identifying number of the second port has a preset relationship with an identifying number of the first port (col. 38, lines 45-47).

Although Lor teaches a reply message identifying the first port, Lor fails to explicitly teach not identifying the second port.

However, it would have been obvious to one skilled in the art to realize the reply message does not identify the second port, since the first and second ports (source and destination ports) are reversed and use of the well-known ports (WKP) are allows for connection between the two ports (col. 38, lines 40-50).

Regarding claims 12, 25 and 51, Lor teaches the device of claims 11, 24 and 50, where the identifying number of the second port equals the identifying number of the first port (col. 38, lines 45-47).

Allowable Subject Matter

8. Claims 4, 5, 10, 13, 17, 18, 23, 26, 30, 31, 36, 39, 43, 44, 49 and 52 are allowed.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rhonda Murphy whose telephone number is (571) 272-3185. The examiner can normally be reached on Monday - Friday 9:00 - 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy Vu can be reached on (571) 272-3155. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Rhonda Murphy
Examiner
Art Unit 2616

RM



HUY D. VU
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600